IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 124 of 2005 (S/B)

Akshay Kumar Chaudhary,
S/o Sri D.L. Chaudhary,
At present working as Investigator (Technical),
District Rural Development Agency,
Nainital & others. ……. Petitioners

Versus

1. State of Uttaranchal,
   through Secretary, Rural Development,
   Uttaranchal, Dehradun.
2. Chief Development Officer, Nainitall.
3. Chief Development Officer, Dehradun.
4. Chief Development Officer, Champawat.
5. Chief Development Officer, Tehri Garhwal.
6. Chief Development Officer,
   Uttarkashi. ……. Respondents.

Mr. S.N. Babulkar, Senior Advocate assisted by Mr. B.S. Negi, Advocate for the petitioners.
Mr. K.P. Upadhyaya, Standing Counsel for the State of Uttaranchal.

Coram: Hon. Cyriac Joseph, C.J.
Hon. Rajesh Tandon, J.

ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

1. The petitioners are Investigators (Technical) working in District Rural Development Agencies. According to them, they have completed more than 7 years service as Investigators and hence, they are eligible for promotion to the cadre of Assistant Engineer. Their grievance is that though they are eligible for promotion under the Rules, they are not being considered for promotion. They have filed this writ petition praying for a writ of mandamus directing the respondents to consider the claim of the petitioners for promotion from the post of Investigator (Technical) to the post of Assistant Engineer.

2. Before seeking a writ of mandamus from this Court, the petitioners did not make any representation to the respondents

claiming promotion. Unless the petitioners have made a demand to the respondents and such demand has been either ignored or denied, the petitioners are not entitled to seek a writ of mandamus from the High Court. Therefore, this writ petition is premature and is liable to be dismissed on that ground.

3. Mr. S.N. Babulkar, learned senior counsel for the petitioners submits that the petitioners will submit a representation to the first respondent within one week and that the first respondent may be directed to consider and dispose of the representation without any delay. Learned counsel explains that since the respondents are promoting Junior Engineers to the cadre of Assistant Engineer without considering the claim of the petitioners also for promotions, it is just and necessary that their representation is considered and disposed of as expeditiously as possible.

4. Having regard to the facts and circumstances of the case, we are inclined to allow the above request of the learned counsel for the petitioners. Mr. K.P. Upadhyaya, learned Standing Counsel for the State of Uttaranchal has no objection in giving such a direction to the first respondent.

5. Hence, the writ petition is disposed of with a direction that if the petitioners make a representation to the first respondent claiming promotion to the cadre of Assistant Engineer, the first respondent shall consider and dispose of such representation in accordance with law as expeditiously as possible and at any rate, within a period of two months from the date of receipt of the representation.

(Rajesh Tandon, J.) **(Cyriac Joseph, C.J.)**
29.06.2005 **29.06.2005**

G